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SUBJECT: President promulgates controversial amendments to Conflict of Interest Law

¶1. Summary: On June 18, outgoing President Vaira Vike-Freiberga (whose term in office expires July 7) announced that she will promulgate controversial amendments to the "Law on Preventing Conflict of Interests among Public Officials," which were adopted by the Parliament on June 7. The amendments were adopted by unanimous vote; however, NGOs identified a number of controversial elements and called on the President to return the bill to the Saeima, but she declined. Although the anti-corruption bureau approved of the laws, corruption watchdogs and some law enforcement officials say the amendments amount to the effective "legislation of corruption." End summary.

¶2. On June 7, the Saeima unanimously passed amendments to the Law on Preventing Conflict of Interests among Public Officials initiated by the Anti-Corruption Office (KNAB). The KNAB initiated the amendments based on the argument that the current restrictions are "not proportional to possible merits brought by the implementation of these provisions." Interestingly, even the opposition party New Era (JL), which claims to have the fight against corruption at the top of its party's priorities, supports the amendments stating that the arguments of the KNAB outweighed NGO criticism.

¶3. The bill initiated by the KNAB included a number of amendments (including giving rights to members of the Saeima, municipal councils and ministers to decide on their remuneration, and the ability to vote for their own nomination to posts) which received sharp criticism from anti-corruption experts. However, the heaviest criticism was directed at a provision which removed any limit to the value of gifts given to public officials after office hours. According to the key corruption watch-dog in the NGO sector, Providus, under the amendments officials will be able to accept gifts of unlimited value. Providus also stressed that the amendments do not foresee any control mechanisms to verify whether those gifts are linked to a person's interest in specific decisions taken by the public official.

¶4. The KNAB refuted accusations that the proposed amendments would ease the possibility to bribe public officials, and stressed that the amendments do not remove criminal liabilities for accepting bribes or "trading with influences". The Chief of the KNAB, Andrejs Loskutovs, commented that the amendments correspond to Latvia's existing situation.

¶5. Due to public debate on the amendments, the President's Chancellery called a meeting of experts, including KNAB and Providus representatives. After having heard all arguments, the President decided to promulgate the law and provided the following arguments in support of her decision: 1) the amendments provide room for public officials to accept awards and gifts for their achievements in the fields of sport and creative arts (parliament includes a competitive weightlifter, active composer, and poet, for example); and 2) the amendments preserve a provision which prohibits any state official from having certain relations with a person who has given a gift within two years. The President also added that the main focus should be on improving control "over state officials' income rather than imposing restrictions which are difficult to implement in practice." She advised strengthening the capacity of the KNAB and the adoption of other laws related to controlling sources of income for state officials.

¶6. Comment. The President's decision to promulgate the law, which does not follow the common European practice of setting limits on the value of gifts for state officials, should be viewed in the light of recent events. Chiefly, in the last months of her term of office, President Vike-Freiberga has been rather critical about the work of the Parliament and the government (most significantly, having used her Constitutional powers to call a referendum to revoke controversial amendments to the Criminal Law passed by the Parliament. See reftel), and one more reprimand could result in the open dissatisfaction of the government towards her presidency. Additionally, the amendments to the Law on Preventing Conflict of Interests among Public Officials have been criticized mainly by NGOs, and not been the subject of broad public or institutional criticism. Whether the adoption of these controversial amendments will really foster corruption in Latvia will depend on the possible adoption of other legal norms mentioned by the President and on the ability of the KNAB to monitor the connections between public officials and gift donors. Despite the comments of Loskutovs in support of the legislation, several KNAB officers have confided in PolOff that what was originally proposed by the KNAB on this subject was significantly different from what ended up passing in the Parliament, though they would not elaborate. Others in the general law enforcement community, to include the Prosecutor General's office, have bluntly stated to PolOff that they believe this is legalized corruption. Implementation will be key to seeing how this develops.

Bailey